

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1700 of 1992

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

KANCHANBEN SHAMJIBHAI

Versus

STATE OF GUJARAT

Appearance:

MRS KETTY A MEHTA for Petitioner
Ms Manisha Lavkumar. AGP for Respondent No. 1
MR JITENDRA M PATEL for Respondent No. 3

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 15/09/2000

ORAL JUDGEMENT

The petitioner who is a widow and working on part-time basis as a Tedagar with Dhandhuka Nagar Panchayat (which is now reported to be a Municipality), has approached

this court with a complaint that on a meagre salary of Rs.3/- per day, she has been serving in the panchayat for escorting children from home to Bal Mandir since the year 1974. She has been writing to the Panchayat department of the State and her own Panchayat that her services be regularised and salary equivalent to living wage be paid to her.

During the pendency of this petition, this court made an interim order on 15.12.1993 directing the panchayat to pay an additional sum of Rs. 500/- per month as interim arrangement pending decision in the petition.

Reply affidavits have been filed both on behalf of the panchayat and the State. In the reply affidavit filed by the Secretary of the Panchayat, it is stated that service of the petitioner has been made permanent but she cannot be paid salary without sanction of post and approval of the State Government in the Panchayat Department. In the separate affidavit filed by the Development Commissioner on behalf of the State, it is stated that Tedagar is not a post within the staff structure of the Panchayat and no recruitment to such post can be permitted. It is also submitted on behalf of the State that recruitment rules for panchayat service have to be suitably amended to provide for such post for which the process is on.

It is not disputed that work from the petitioner is being taken on the post of Tedagar since the year 1974 on shockingly paltry sum of Rs. 3/- per day which is hardly an amount to sustain livelihood of even a woman living in village. The minimum prescribed wage under the Minimum Wages Act is more than Rs.1,800/- per month.

The petitioner's services are being exploited on a sum of Rs. 3/- per day which can be described as 'begar' and exploitation contrary to the mandates of Article 23 of the Constitution. The Directive Principles contained in Article 39 of the Constitution require the State to direct its policy towards securing that the citizens, men and women, equally have the right to an adequate means of livelihood.

The panchayat as a local authority is expressly covered under the wider definition in Article 12 of the Constitution and is bound to follow constitutional provisions.

In the considered opinion of this court, taking services of the petitioner even on part-time basis on payment of

Rs. 3/- per day right from 1974 is exploitation in violation of Article 23 of the Constitution. Certain directions can be issued both against the panchayat and the State.

By way of interim arrangement, this court directed the panchayat to pay additional sum of Rs. 500/- per month and a sum aggregating to Rs. 25,032.26 has been paid.

In order to stop her further exploitation for the remaining period of her service, petition is allowed by directing the respondent Panchayat which is now a Municipality, to pay salary of Rs. 600/- per month to the petitioner from October, 2000 in addition to the salary and arrears already paid to her. Arrears due from March, 1993 and payable under the orders of this court dated 15.12.1993 be also cleared by the respondent-Local Authority.

State is directed to issue instructions to the Panchayat Department to formulate a policy and sanction staff structure in all the panchayat for the post of Tedagar so as to stop exploitation of services of women.

Petition is accordingly allowed. Rule is made absolute. Petitioner shall also be paid cost in a sum of Rs. 500/- to be paid jointly by the respondents.

(D. M. Dharmadhikari, C. J.)

parekh